UNITED STATES PATENT AND TRADEMARK OFFICE

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EXAMINER
MORGAN, ROBERT W

ART UNIT	PAPER NUMBER
3626	

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Please find below and/or attached an Office communication concerning this application or proceeding.

PTO-90C (Rev. 10/03)

	Application No.	Applicant(s)
Office Action Summary	09/784,751	TAHAN, A. CHRISTIAN
	Examiner	Art Unit
	Robert W. Morgan	3626

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE <u>3</u> MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.
- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

1)☒ Responsive to communication(s) filed on <u>20 June 2005</u>.

2a)☐ This action is **FINAL**.   2b)☒ This action is non-final.

3)☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

4)☒ Claim(s) *1 and 3-18* is/are pending in the application.

    4a) Of the above claim(s) _____ is/are withdrawn from consideration.

5)☐ Claim(s) _____ is/are allowed.

6)☒ Claim(s) *1 and 3-18* is/are rejected.

7)☐ Claim(s) _____ is/are objected to.

8)☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

9)☐ The specification is objected to by the Examiner.

10)☐ The drawing(s) filed on _____ is/are: a)☐ accepted or b)☐ objected to by the Examiner.

    Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

    Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).

11)☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

12)☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).

    a)☐ All   b)☐ Some * c)☐ None of:

      1.☐ Certified copies of the priority documents have been received.

      2.☐ Certified copies of the priority documents have been received in Application No. _____.

      3.☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

    * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

1)☐ Notice of References Cited (PTO-892)

2)☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)

3)☒ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08) Paper No(s)/Mail Date <u>1/26/05</u>.

4)☐ Interview Summary (PTO-413) Paper No(s)/Mail Date. _____.

5)☐ Notice of Informal Patent Application (PTO-152)

6)☐ Other: _____.

DETAILED ACTION

Continued Examination Under 37 CFR 1.114

1.   A request for continued examination under 37 CFR 1.114, including the fee set forth in

37 CFR 1.17(e), was filed in this application after final rejection. Since this application is

eligible for continued examination under 37 CFR 1.114, and the fee set forth in 37 CFR 1.17(e)

has been timely paid, the finality of the previous Office action has been withdrawn pursuant to

37 CFR 1.114. Applicant's submission filed on 6/20/05 has been entered.

Notice to Applicant

2.   In the amendment filed 6/20/05, the following has occurred: Claim 1 has been amended.

Now claims 1 and 3-18 are presented for examination.

Information Disclosure Statement

3.   The information disclosure filed 1/26/05 has been entered and considered.

Claim Rejections - 35 USC § 112

4.   The following is a quotation of the second paragraph of 35 U.S.C. 112:

> The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the
> subject matter which the applicant regards as his invention.

Claim 1 is rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing

to particularly point out and distinctly claim the subject matter which applicant regards as the

invention. The large size patient history information file or said large size patient history file is

unclear as to what makes a file large sized. For examination purposes the Examiner has treated

large size as a complete patient historical file.

Claim Rejections - 35 USC § 103

5.   The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all

obviousness rejections set forth in this Office action:

> (a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in
> section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are
> such that the subject matter as a whole would have been obvious at the time the invention was made to a person
> having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negatived by the
> manner in which the invention was made.

6.   Claims 1, 3-5 and 7-9 are rejected under 35 U.S.C. 103(a) as being unpatentable over

U.S. Patent No. 6,463,417 to Schoenberg and U.S. Patent No. 5,822,544 to Chaco et al. in view

of US 2002/0004729 to Zak et al.

As per claim 1, Schoenberg teaches a system for assisting in the rapid and secure delivery

of medical information directly to the site at which emergency assistance is being performed and

which is remote and for uploading information from the remote emergency assistance site

relative to the condition of the patient at the remote emergency assistance site, from any hospital

or emergency room (this recitation has not been given patentable weight because the recitation

occurs in the preamble. A preamble is generally not accorded any patentable weight where it

merely recites the purpose of a process or the intended use of a structure, and where the body of

the claim does not depend on the preamble for completeness but, instead, the process steps or

structural limitations are able to stand alone. See *In re Hirao*, 535 F.2d 67, 190 USPQ 15

(CCPA 1976) and *Kropa v. Robie*, 187 F.2d 150, 152, 88 USPQ 478, 481 (CCPA 1951))

comprising:

--the claimed global database for warehousing patient history information is met by

database (122, Fig. 1);

--the claimed server for transmitting a large size patient history information file to said

site once access has been granted is met by the server system (120, Fig. 1) that determines

requestor identification and transmits medical information to the request system (130, Fig. 1)

(see: column 5, lines 47 to column 6, lines 35); and

--the claimed computer and display at the site remote from any hospital or emergency

room and at which said emergency assistance is being performed, said computer and display

being wirelessly connected via a wireless transceiver at said site capable of handling said large

size patient history file for displaying said patient history information from information

downloaded from said server, said transceiver uploading information about a patient at said

remote site to said global database is met by the request system (130, Fig. 1) which can be any

wired or wireless device that can be connected to a communication network, such as a personal

digital assistant (PDA) or a cellular telephone and is located wherever access to a patient's

medical record is required such as in an emergency room, ambulance or another doctor's office

(see: column 4, lines 36-51). In addition, when a patient's medical record is needed, the

requestor inputs to the server system (120, Fig. 1) through request system (130, Fig. 1) and over

network (160, Fig. 1) (see: column 5, lines 33-36). Moreover, the Examiner respectfully submits

that insofar as claim 1, merely states "capable of handling said large size patient history file...",

the prior art need only show a capability of handling said large size patient history file, and not

the actual handling, per se.

Schoenberg fails to explicitly teach:

--the claimed access code assigned to a predetermined patient to permit access to the

corresponding patient history information;

--the claimed access code carried by said patient; and

--the claimed access code entry device at said computer and display for the entry for the

entry of the access code carried by said patient and for transmittal thereof to said global database,

thus to permit the downloading of the patient history information upon authorization, whereby

critical medical information is available at the site at which medical assistance is being

performed.

Chaco et al. teaches a patient care and communication system using a memory card that

contains patient identification information such as ID numbers (116, Fig. 1), which used to

access patient information from a local or main computer (see: column 7, lines 10-18 and 50-67).   ,

In addition, Chaco et al. teaches that the memory card (110, Fig. 1a and 1b) is approximately the

same size as a credit card, which can be carried by the patient (see: column 7, lines 10-18).

Chaco et al. further teaches that the patient station (210, Fig. 2) includes a memory card

reader/writer (412, Fig. 4) into which the memory card (110, Fig. 1) may be inserted (see:

column 11, 14-22).

Therefore, it would have been obvious to a person of ordinary skill in the art at the time

the invention was made to include the memory card using ID numbers to access patient

information as taught by Chaco et al. within the method and system for distributing medical

information as taught by Schoenberg with the motivation of using a system capable of

performing task such as maintaining patient medical data to provide maximum patient care (see: '

Chaco et al.: column 3, lines 8-13).

Schoenberg and Chaco et al. fail to explicitly teach uploading and downloading

information to the global database.

Zak et al. teaches an hand held apparatus (10, Fig. 1) for capturing and storing emergency

information by an emergency medical technician (5, Fig. 1) at the site of the medical emergency

(2, Fig. 1) (see: paragraph 55). In addition, Zak et al. teaches that all information related to the

emergency is retained and electronic transferred to the hospital's computer system. Furthermore,

Zak et al. teaches that the system creates SOL to load/update the ODBC-compliant database (see:

paragraph 92).

One of ordinary skill in the art at the time the invention was made would have found it

obvious to include a hand held apparatus (10, Fig. 1) for capturing and storing emergency

information as taught by Zak et al. with the system of Schoenberg and Chaco et al. with the

motivation of providing EMS personnel with a compact, convenient, durable, and inexpensive

device that strongly supports their efforts to provide quality out-of-hospital care (see: Zak et al.:

paragraph 36).

As per claim 3, Schoenberg teaches a wireless transceiver includes a wireless phone

having downloading and uploading capability and having a display on which said information is

presented. This feature is met the request system (130, Fig. 1) which can be any wired or

wireless device that can be connected to a communication network, such as a personal digital

assistant (PDA) or a cellular telephone (see: column 4, lines 36-51). The Examiner considers the

cellular telephone to have the capability of downloading and uploading information.

As per claim 4, Schoenberg teach the claimed wireless transceiver includes a personal

digital assistant. This feature is met the request system (130, Fig. 1) which can be any wired or

wireless device that can be connected to a communication network, such as a personal digital

assistant (PDA) or a cellular telephone (see: column 4, lines 36-51).

As per claim 5, Schoenberg, and Chaco et al. teach a request system (130, Fig. 1) which can be any wired or wireless device that can be connected to a communication network, such as a personal digital assistant (PDA) or a cellular telephone (see: column 4, lines 36-51).

Schoenberg and Chaco fail to explicitly teach modifying the data in said global database, whereby patient diagnosis and treatment can be uploaded to said global database.

Zak et al. teaches an hand held apparatus (10, Fig. 1) for capturing and storing emergency information by an emergency medical technician (5, Fig. 1) at the site of the medical emergency (2, Fig. 1) (see: paragraph 55). In addition, the apparatus (10, Fig. 1) includes a basic set of data collection forms such as a problem and treatment form (see: paragraph 57, 60 and 62). In addition, when the patient (2, Fig. 1) is transported to an emergency department (20, Fig. 1), the patient report (15, Fig. 1) is wirelessly transmitted to an emergency department laser printer and the emergency staff (25, Fig. 1) (see: paragraph 56). Additionally, Zak et al. teaches that all information related to the emergency is retained and electronic transferred to the hospital's computer system. Furthermore, Zak et al. teaches that the system creates SQL to load/update the ODBC-compliant database (see: paragraph 92).

The obviousness of combining the teachings of Zak et al. with the system of Chaco et al. are discussed in the rejection of claim 1, and incorporated herein.

As per claim 7, Schoenberg, Chaco et al. and Zak et al. teach the claimed access code is in the form of a machine readable code and wherein said access code entry device includes a machine code reader. This feature is met by the patient's bracelet with a bar-coded ID number that is read with a bar-code reader or the portable nurse station bar-coded reader (see: Chaco et al.: column 28, lines 32-37).

As per claim 8, Schoenberg, Chaco et al. and Zak et al. teach the claimed machine

readable code is a bar code and wherein said access code entry device includes a bar code reader.

This feature is met by the patient's bracelet with a bar-coded ID number that is read with a bar-

code reader or the portable nurse station bar-coded reader (see: Chaco et al.: column 28, lines 32-

37).

As per claim 9, Schoenberg, Chaco et al. and Zak et al. teach the claimed global database

is subdivided into a number of databases, each located in a different geographic region and each

having a separate server, with the information from said global database being shared between

the subdivided databases and wherein each subdivided database has an associated server, such

that rapid transmission of patient information is assured regardless of the location of the patient.

This limitation is met by the reference databases for drugs and protocols accessed by the

emergency medical technician to support the collection of data (see: Zak et al.: paragraph 19). In

addition, when a patient's medical record is needed, the requestor inputs to the server system

(120, Fig. 1) through request system (130, Fig. 1) and over network (160, Fig. 1) (see:

Schoenberg: column 5, lines 33-36). Furthermore, the setup system (110, Fig. 1) can be located

at the patient's physician office (see: Schoenberg: column 4, lines 46-48).

6.   Claim 6 is rejected under 35 U.S.C. 103(a) as being unpatentable over U.S. Patent No.

6,463,417 to Schoenberg, U.S. Patent No. 5,822,544 to Chaco et al. and US 2002/0004729 to

Zak et al. as applied to claim 1 above, and further in view of U.S. Patent No. 5,992,890 to

Simcox.

As per claim 6, Schoenberg, Chaco et al. and Zak et al. teach an hand held apparatus (10, Fig. 1) for capturing and storing emergency information by an emergency medical technician (5, Fig. 1) at the site of the medical emergency (2, Fig. 1) (see: Zak et al.: paragraph 55).

Schoenberg, Chaco et al. and Zak et al. fail to explicitly teach transmitting said prescription to a pharmacy for filling.

Simcox teaches a hand held remote computer including means for electronically communicating to a host computer which facilities verification of the data entry and icon selection and provides for electronic communication with a remote pharmaceutical distribution point (see: column 2, lines 37-42).

Therefore, it would have been obvious to a person or ordinary skill in the art at the time the invention was made to include the hand held computer that provides electronic communication with a remote pharmaceutical distribution point as taught by Simcox with the system as taught by Schoenberg, Chaco et al. and Zak et al. with the motivation of providing a prescription media which includes a plurality of visual indicia to give positive correlation between a prescribed pharmaceutical and the application of that pharmaceutical (see: column 2, lines 5-9).

8.   Claims 10-11 and 18 are rejected under 35 U.S.C. 103(a) as being unpatentable over U.S. Patent No. 6,463,417 to Schoenberg in view of US 2002/0004729 to Zak et al.

As per claim 10, Schoenberg teaches a method of providing patient histories to a site remote from any hospital or emergency room and at the location of a patient in need of medical attention, comprising the steps of:

--the claimed providing patient histories at a centralized location in a global database

coupled to the Internet by a server is met by the setup system having a computer processor and

associated memory for inputting the medical information to the database (see: column 3, lines

41-44). In addition, the system (100, Fig. 1) includes a setup system (110, Fig. 1), server system

(120, Fig. 1) and request system (130, Fig. 1) all connected to a common communications (see:

column 4, lines 15-17). In addition, Schoenberg teaches a request system (130, Fig. 1) which can

be any wired or wireless device that can be connected to a communication network, such as a

personal digital assistant (PDA) or a cellular telephone and is located wherever access to a

patient's medical record is required such as in an emergency room, ambulance or another

doctor's office (see: column 4, lines 36-51).

Schoenberg fails to explicitly teach the claimed uploading patient information from said

site.

Zak et al. teaches an hand held apparatus (10, Fig. 1) for capturing and storing emergency

information by an emergency medical technician (5, Fig. 1) at the site of the medical emergency

(2, Fig. 1) (see: paragraph 55). In addition, the apparatus (10, Fig. 1) includes a basic set of data

collection forms such as a problem and treatment form (see: paragraph 57, 60 and 62).

Additionally, when a patient (2, Fig. 1) is transported to an emergency department (20, Fig. 1),

the patient report (15, Fig. 1) is wirelessly transmitted to an emergency department laser printer

and the emergency staff (25, Fig. 1) (see: paragraph 56).

One of ordinary skill in the art at the time the invention was made would have found it

obvious to include a hand held apparatus (10, Fig. 1) for uploading patient information from the

site of the accident as taught by Zak et al. within the method and system for distributing medical

information as taught by Schoenberg with the motivation of providing EMS personnel with a

compact, convenient, durable, and inexpensive device that strongly supports their efforts to

provide quality out-of-hospital care (see: Zak et al.: paragraph 36).

As per claim 11, Schoenberg teach the claimed patient history is only transmitted when

authorized by the patient. This feature is met by the user that can be a patient or the patient's

physician generates security access codes at step 202 to provide varying access to the patient's

medical records (see: column 4, lines 54-57). In addition, Schoenberg teaches a server system

(120, Fig. 1) that determines requestor identification and transmits medical information to the

request system (130, Fig. 1) (see: column 5, lines 47 to column 6, lines 35).

As per claim 18, Schoenberg, and Zak et al. teach the claimed global database is

decentralized through the use of regional databases, each having its own server and each carrying

patient histories so that access to the patient history can be on a real time basis to permit timely

treatment. This limitation is met by the reference databases for drugs and protocols accessed by

. the emergency medical technician to support the collection of data (see: Zak et al.: paragraph

19). In addition, when a patient's medical record is needed, the requestor inputs to the server

system (120, Fig. 1) through request system (130, Fig. 1) and over network (160, Fig. 1) (see:

Schoenberg: column 5, lines 33-36). In addition, Schoenberg, and Zak et al. teaches a server

system (120, Fig. 1) that determines requestor identification and transmits medical information to

the request system (130, Fig. 1) (see: Schoenberg: column 5, lines 47 to column 6, lines 35). The

Examiner considers that once the server identifies the requestor information then the medical

information is transmitted in real time.

9.   Claims 12-17 are rejected under 35 U.S.C. 103(a) as being unpatentable over U.S. Patent

No. 6,463,417 to Schoenberg and US 2002/0004729 to Zak et al. in view of U.S. Patent No.

5,822,544 to Chaco et al.

As per claim 12, Schoenberg and Zak et al. fail to teach the claimed authorization is in

the form of an access code carried by the patient.

Chaco et al. teaches a memory card that contains patient identification information such

as ID numbers (116, Fig. 1), which used to access patient information from a local or main

computer (see: column 7, lines 10-18 and 50-67).

Therefore, it would have been obvious to a person of ordinary skill in the art at the time

the invention was made to include the memory card using ID numbers to access patient

information as taught by Chaco et al. with the system as taught by Schoenberg and Zak et al.

with the motivation of using a system capable of performing task such as maintaining patient

medical data to provide maximum patient care (see: Chaco et al.: column 3, lines 8-13).

As per claim 13, Schoenberg, Zak et al. and Chaco et al. teach the claimed access code is

obtained from the patient and is transmitted to the server associated with said global database.

This feature is met by the user that can be a patient or the patient's physician generates security

access codes at step 202 to provide varying access to the patient's medical records (see:

Schoenberg: column 4, lines 54-57). In addition, Schoenberg, Zak et al. and Chaco et al. teaches

a server system (120, Fig. 1) that determines requestor identification and transmits medical

information to the request system (130, Fig. 1) (see: Schoenberg: column 5, lines 47 to column 6,

lines 35). Additionally, Schoenberg, Zak et al. and Chaco et al. teach a memory card that

contains patient identification information such as ID numbers (116, Fig. 1), which used to

access patient information from a local or main computer (see: Chaco et al.: column 7, lines 10-18 and 50-67).

As per claim 14, Schoenberg, Zak et al. and Chaco et al. teach the claimed access code is carried by the patient. This limitation is met by the memory card (110, Fig. 1a and 1b) is approximately the same size as a credit card, which can be carried by the patient (see: Chaco et al.: column 7, lines 10-18).

As per claim 15, Schoenberg, Zak et al. and Chaco et al. teach the claimed access code is in the form of a bar code and wherein a bar code reader is used to read the access code and transmit the access code to the server associated with said global database. This limitation is met by the patient's bracelet with a bar-coded ID number that is read with a bar-code reader or the portable nurse station bar-coded reader (see: Chaco et al.: column 28, lines 32-37).

As per claim 16, Schoenberg, Zak et al. and Chaco et al. teach the claimed access code is carried on a bracelet. This feature is met by the patient's bracelet with a bar-coded ID number that is read with a bar-code reader or the portable nurse station bar-coded reader (see: Chaco et al.: column 28, lines 32-37).

As per claim 17, Schoenberg, Zak et al. and Chaco et al. teach the claimed access code is imprinted on a card adapted to be carried. This limitation is met by the memory card (110, Fig. 1) that includes printed ID numbers on the front (see: Chaco et al.: column 7, lines 10-18).

Response to Arguments

10.   Applicant's arguments filed 6/20/05 have been fully considered but they are not persuasive. Applicant's arguments will be addressed hereinbelow in the order in which they appear in the response 6/20/05.

(A) In the remarks, Applicants argue in substance that, (1) Schoenberg fails to teach

wireless communication, uploading of patient files from a remote site and information

transmitted to EMT personnel at the remote site; (2) Chaco fails to teach uploading of

information from the field and uploading from the field of information to a global database; (3)

Chaco does not show that information relating to the patient history is available to personnel in

the field; (4) Zak fail to teach wireless links, Internet connection and server; (5) Zak fails to teach

that large patient files can be sent to EMT personnel on the spot; and (6) the Zak reference

teaches away from the claimed invention.

(B) In response to Applicants arguments that, (1) Schoenberg fails to teach wireless

communication, uploading of patient files from a remote site and information transmitted to

EMT personnel at the remote site; (2) Chaco fails to teach uploading of information from the

field and uploading from the field of information to a global database and (3) Chaco does not

show that information relating to the patient history is available to personnel in the field. The

Examiner respectfully submits that the Zak reference, and not Schoenberg and Chaco, per se,

that is relied upon for the specific teaching of an hand held apparatus (10, Fig. 1) for capturing

and storing emergency information by an emergency medical technician (5, Fig. 1) at the site of

the medical emergency (2, Fig. 1) (see: paragraph 55). In addition, Zak et al. teaches that all

information related to the emergency is retained and electronic transferred to the hospital's

computer system. Furthermore, Zak et al. teaches that the system creates SOL to load/update the

ODBC-compliant database (see: paragraph 92). Schoenberg and Chaco are relied on for

primarily teaching a database (122, Fig. 1, Schoenberg) and a patient care and communication

system using a memory card that contains patient identification information such as ID numbers

(116, Fig. 1), which used to access patient information from a local or main computer (see:

Chaco: column 7, lines 10-18 and 50-67). Thus, the proper combination of the applied references

would be the incorporation of Zak's system of an emergency medical technician using an hand

held apparatus that receives and transmits emergency data at the site of the medical emergency

with the global database and patient access codes system of Schoenberg and Chaco, respectively.

(C) In response to Applicants arguments that, (4) Zak fail to teach wireless links, Internet

connection and server. The Examiner respectfully submits the Schoenberg reference and not the

Zak reference that is relied on for teaching that when a patient's medical record is needed, the

requestor inputs to the server system (120, Fig. 1) through request system (130, Fig. 1) and over

network (160, Fig. 1) (see: Schoenberg: column 5, lines 33-36). In addition, Schoenberg teaches

the request system (130, Fig. 1) which can be any wired or wireless device that can be connected

to a communication network, such as a personal digital assistant (PDA) or a cellular telephone

(see: column 4, lines 36-51). This clearly indicates that the system can be wirelessly linked over

a network that uses an Internet connection, which is inputted to the server.

(D) In response to Applicants arguments that, (5) Zak fails to teach that large patient files

can be sent to EMT personnel on the spot. The Examiner respectfully submits that Schoenberg

reference is relied on for teachings a request system (130, Fig. 1) which can be any wired or

wireless device that can be connected to a communication network, such as a personal digital

assistant (PDA) or a cellular telephone and is located wherever access to a patient's medical

record is required such as in an emergency room, ambulance or another doctor's office (see:

column 4, lines 36-51). In addition, when a patient's medical record is needed, the requestor

inputs to the server system (120, Fig. 1) through request system (130, Fig. 1) and over network

(160, Fig. 1) (see: column 5, lines 33-36). The Examiner considers that a requestor may request a

patient's medical record from the ambulance, which could be at the spot of the medical

emergency as described by Schoenberg. Furthermore, the Schoenberg and Zak references do not

excluded the transfer large sized files to a medical technician or to ambulance at the spot of the

medical emergency, therefore it is respectfully submitted that the both references meet

Applicant's claimed limitation.

(E) In response to Applicants arguments that, (6) the Zak reference teaches away from

the claimed invention. The Examiner respectfully submits that there is no evidence that the

applied references teach away from applicant invention. In addition, the Zak reference is relied

on for teachings of an hand held apparatus (10, Fig. 1) for capturing and storing emergency

information by an emergency medical technician (5, Fig. 1) at the site of the medical emergency

(2, Fig. 1) (see: paragraph 55). In addition, when the patient (2, Fig. 1) is transported to an

emergency department (20, Fig. 1), the patient report (15, Fig. 1) is wirelessly transmitted to an

emergency department laser printer and the emergency staff (25, Fig. 1) (see: paragraph 56).

Additionally, Zak et al. teaches that all information related to the emergency is retained and

electronic transferred to the hospital's computer system. Moreover, Zak et al. teaches that the

system creates SQL to load/update the ODBC-compliant database (see: paragraph 92).

Furthermore, it is respectfully submitted that if Appellant's were correct in his assertion, it has

been held that prior art reference must be considered in its entirety, i.e., as a whole, including

portions that would lead away from the claimed invention. W.L. Gore & Associates, Inc. v.

Garlock, Inc., 721 F.2d 1540, 220 USPQ 303 (Fed. Cir. 1983), cert. denied, 469 U.S. 851 (1984).

Conclusion

Applicant's amendment necessitated the new ground(s) of rejection presented in this

Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a).

Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE

MONTHS from the mailing date of this action. In the event a first reply is filed within TWO

MONTHS of the mailing date of this final action and the advisory action is not mailed until after

the end of the THREE-MONTH shortened statutory period, then the shortened statutory period

will expire on the date the advisory action is mailed, and any extension fee pursuant to 37

CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event,

however, will the statutory period for reply expire later than SIX MONTHS from the date of this

final action.

Any inquiry concerning this communication or earlier communications from the

examiner should be directed to Robert W. Morgan whose telephone number is (571) 272-6773.

The examiner can normally be reached on 8:30 a.m. - 5:00 p.m. Mon - Fri.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's

supervisor, Joseph Thomas can be reached on (571) 272-6776. The fax phone number for the

organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see http://pair-direct.uspto.gov. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

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